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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION (L) NO. 46 OF 2007
IN
WRIT PETITION NO. 1335 OF 2006

Mrs. Sangita Subhash Pawase ... Rev.Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Mr. D.S. Mhaispurkar for Rev. Petitioner.

Mr. G.W. Mattows for Respondents.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATED: OCTOBER 11, 2007

P.C.

. On the date when the matter was kept for hearing, the Petitioner was not present. However, we had gone through the records and after considering the records, we had dismissed the Petition.

. The case of the Petitioner is that her brother had been issued caste validity certificate as belonging to "Mahadeo Koli" S.T. It is the case of the Petitioner that this aspect should be considered in her favour as they belong to the same family. It is her contention, that it cannot be that one sibling belongs to one tribe and other belongs to another caste/tribe.

. The decision in the case of Petitioner’s brother was before the judgment in Madhuri Patil’s case. It is now well settled that even if one sibling was earlier issued caste validity certificate as belonging to one caste/tribe and if the scrutiny committee on the record before it comes to a different conclusion in case of another sibling, there is no error of law as long as the presumption in favour of the petitioner arising out of the sibling being granted caste validity certificate can be rebutted.

. After Madhuri Patil’s case, a vigilance enquiry is required. In the instant case, during the enquiry the Petitioner’s father’s school certificate was discovered. It was written on the school records of the Petitioner’s father as "Kshatriya Koli". This certificate was not before the appellate authority which considered the case of the Petitioner’s brother. In Para 11 and 12 of the order of the Committee, it noted that the report of the Vigilance Cell was made available to the Petitioner for her comments. Inspite of that the Petitioner did not attend any hearing nor submitted any explanation on the Vigilance Cell report. The Committee thereafter in Para 15 has noted that the family traits and characteristics of the Petitioner are not associated with Mahadeo Koli Scheduled tribe. For all the aforesaid reasons, rejected the caste claim of the Petitioner.

. At the time of hearing of the Petition and even now, we have considered this aspect. We have gone through the order of the Caste Scrutiny Committee. We do not find any error apparent warranting interference. Hence, Review petition rejected.

(ANOOP V. MOHTA, J.) **(F.I.REBELLO, J.)**